

INDEX FOR RECORD OF DECISION PETITION FOR RESIDUAL DESIGNATION

I. PETITION FOR DESIGNATION

- A. Petition dated July 10, 2013 to Jared Blumenfeld, Regional Administrator of Region 9, from Natural Resources Defense Counsel (NRDC), Conservation Law Foundation (CLF), American Rivers and California Coastkeeper Alliance (CCA) for designation for NPDES stormwater permitting of certain commercial, industrial and institutional sources, including:
 - 1. Thumb drive containing all the references cited in the petition, and
 - 2. Attachment A to the petition listing all the waterbodies in Region 9 impaired by the pollutants targeted by the petition.

II. REGION 9 RESPONSE TO THE PETITION

- A. Letter dated March 12, 2014, from Jared Blumenfeld, Regional Administrator for Region 9 to NRDC transmitting Region 9's final determination for the petition, and enclosing Region 9's Record of Decision explaining the final determination.
- B. Letter dated March 12, 2014, from Jared Blumenfeld, Regional Administrator for Region 9 to CLF transmitting Region 9's final determination for the petition, and enclosing Region 9's Record of Decision explaining the final determination.
- C. Letter dated March 12, 2014, from Jared Blumenfeld, Regional Administrator for Region 9 to American Rivers transmitting Region 9's final determination for the petition, and enclosing Region 9's Record of Decision explaining the final determination.
- D. Letter dated March 12, 2014, from Jared Blumenfeld, Regional Administrator for Region 9 to CCA transmitting Region 9's final determination for the petition, and enclosing Region 9's Record of Decision explaining the final determination.
- E. Letter dated October 31, 2013 from Region 9 to NRDC providing interim response to the petition.
- F. Letter dated October 31, 2013 from Region 9 to CLF providing interim response to the petition.
- G. Letter dated October 31, 2013 from Region 9 to American Rivers providing interim response to the petition.
- H. Letter dated October 31, 2013 from Region 9 to CCA providing interim response to the petition.

III. CORRESPONDENCE/COMMUNICATION RELATED TO THE PETITION

- A. Record of communication regarding August 28, 2013 communication between David Smith, Manager of Region 9's NPDES Permits Office and Geoff Brosseau, Executive Director of the California Stormwater Quality Association, and September 9, 2013 communications involving David Smith, Geoff Brosseau and Richard Boone of Orange County.
- B. Letter to Jared Blumenfeld dated November 21, 2013 from APWA, NACWA and NAFSMA concerning stakeholder input concerning the petition.
- C. Three letters dated January 28, 2014 from Nancy Stoner responding the November 21, 2013 letter from APWA, NACWA and NAFSMA and similar letters to Regions 1 and 3.

- D. Letter dated December 12, 2013 to Jared Blumenfeld from Hunton & Williams LLP (representing the Utility Water Act Group) requesting opportunity for public comment on the petition.
- E. Letter dated December 13, 2013 from NRDC, CLF, CCA, and American Rivers to Region 9 concerning public comment on the petition.
- F. Record of Communication regarding January 24, 2014 communication between David Smith, Manager of Region 9's NPDES Permits Office and Lee Decker of Gallagher and Kennedy of Phoenix, AZ, representing the Arizona Chamber of Commerce.
- G. Letter dated January 28, 2014 from Nancy Stoner responding the December 12, 2013 letter from Hunton & Williams LLP and similar letters to Regions 1 and 3.
- H. Letter to Jared Blumenfeld dated February 5, 2014 from APWA concerning the petition.
- I. Letter to Nancy Stoner dated February 14, 2014 from NACWA concerning the petition.

IV. DOCUMENTS REFERRED TO OR CONSULTED IN REGION 9'S FINAL DETERMINATION

- A. Federal Register Notices and Court Cases
 - 1. 55 Fed. Reg. 255 (January 4, 1989)
 - 2. 55 Fed. Reg. 47990 (November 16, 1990)
 - 3. 63 Fed. Reg. 1536 (January 9, 1998)
 - 4. 64 Fed. Reg. 68722 (December 8, 1999)
 - 5. *NRDC v. EPA*, 966 F.2d 1292, 1305 (9th Cir. 1992)
 - 6. *Environmental Defense Center v. EPA*, 344 F.3d 832, 861 (9th Cir. 2003)
- B. Region 9 MS4 and Other Permits.
 - 1. State Water Resources Control Board, Water Quality Order 2013-0001-DWQ NPDES General Permit No. CAS000004, Waste Discharge Requirements for Storm Water Discharges from Small MS4s
 - 2. NPDES Permit and Waste Discharge Requirements for Discharges from the MS4s Draining the Watersheds in the San Diego Region, R9-2013-001, NPDES CAS0109266
 - 3. NPDES Statewide Stormwater Permit Waste Discharge Requirements for State of California Department of Transportation, 2012-0011-DWQ, NPDES CAS000003
 - 4. California Water Quality Order No 97-03-DWQ, NPDES General Permit No. CAS000001 Waste Discharge Requirements for Discharges of Stormwater Associated with Industrial Activity (Excluding Construction)
 - 5. Tentative Order No R9-2013-0064, NPDES Permit No CA0109169, Waste Discharge Requirements, United States Department of the Navy, Naval Base San Diego Complex and Tentative Order No R9-2013-0095 Time Schedule Order Requiring the United States Department of the Navy, Naval Base San Diego Complex to Comply with Requirements Prescribed in Order No R9-2013-0064 NPDES Permit No CA0109169
 - 6. Order No R4-2012-0175 NPDES Permit No CAS004001 Waste Discharge Requirements for MS4 Discharges within the Coastal Watersheds of Los Angeles County Except Those Originating from the City of Long Beach MS4
 - 7. San Francisco Bay Region MS4 Permit Order No R2-2009-0074 NPDES Permit No CAS612008, as amended by R2-2011-0083.

8. 2011 MS4 permit for City and County of Honolulu, HI (NPDES permit No. HIS000002).
9. Final Draft NPDES General Permit for Stormwater Discharges Associated with Industrial Activities, Attachment E, CAS000001 (Proposed)
10. AZPDES Authorization to Discharge Stormwater from a MS4 to Waters of the United States, City of Phoenix, AZ (AZPDES permit No. AZS000003-2009).
11. AZPDES Authorization to Discharge Stormwater from a MS4 to Waters of the United States, City of Tucson, AZ (AZPDES permit No. AZS000001-2010).
12. Order No. R8-2009-0030, NPDES No. CAS618030, Waste Discharge Requirements for [Northern Orange County, CA Communities]
13. Order No. R9-2009-0002, NPDES No. CAS0108740, Waste Discharge Requirements for [Southern Orange County, CA Communities]
14. Permit No. NVS0021911, 2010 MS4 permit Clark County, NV
15. Permit No. HIS000001, 2013 Hawaii Department of Transportation MS4 permit

C. Excerpts from Region 9 MS4 permit annual reports describing permittee activities addressing CII sources:

1. 2012 annual report for County of Los Angeles, CA, and 84 incorporated cities within the County (Attachment U-4 for the City of Los Angeles), December 15, 2012.
2. 2012 annual report (Sections 1 to 4) for City of San Jose, CA, September 14, 2012.
3. 2012 annual report (Section 4) for City of Concord, September 15, 2012.
4. 2012 annual report (Section 4) for City of San Mateo, September 14, 2012.
5. Second Annual Report, September 2013, City of Tucson, Department of Transportation, Stormwater Management Section.
6. 2012 annual report (Part 3) for City of Phoenix, AZ, September 30, 2012.
7. 2011 annual report (Chapter 7) for City and County of Honolulu, HI, October 2011.
8. 2012 annual report (Section C-9) of Orange County, CA, November 15, 2012.
9. 2012 annual report for Clark County, NV (section10), September 2012.
10. 2012 annual report for City of Santa Barbara, CA, March 20, 2013.

D. TMDL Documents

1. Lower Eel River Total Maximum Daily Loads for Temperature and Sediment, U.S EPA Region 9, December 18, 2007.
2. Final Project Report, Pajaro River Total Maximum Daily Load for Sediment (including Llagas Creek, Rider Creek and San Benito River), Central Coast Regional Water Quality Control Board, November 2005.
3. Total Maximum Daily Loads for the Hanalei Bay Watershed, Phase I – Streams and Estuaries, Tetra Tech and the State of Hawaii Department of Health, September 2008.
4. Total Maximum Daily Loads for East Fork Owyhee River and Mill Creek, Nevada Division of Environmental Protection, Department of Conservation and Natural Resources, May 2005.
5. Lake Tahoe Total Maximum Daily Load Technical Report, Lahontan Regional Water Quality Control Board, and Nevada Division of Environmental Protection, June 2010 and August 2011.
6. Total Maximum Daily Loads for Metals, Los Angeles River and Tributaries, U.S.EPA, Region 9 and Los Angeles Regional Water Quality Control Board, June 2, 2005.

7. Total Maximum Daily Loads for Dissolved Copper, Lead and Zinc in Chollas Creek Tributary to San Diego Bay, Technical Report, San Diego Regional Water Quality Control Board, June 2007.
8. Revisions to Total Maximum Daily Loads for the Ala Wai Canal – Island of Oahu, Hawaii, Hawaii Department of Health, June 2002.
9. Lakeside Lake TMDL, Nutrients & Associated Parameters, Arizona Department of Environmental Quality, June 2005.

E. Miscellaneous Reports and Other Documents

1. EPA 2009, *Technical Guidance on Implementing the Stormwater Runoff Requirements for Federal Projects under Section 438 of the Energy Independence and Security Act*. EPA 841-B-09-001, Office of Water, Washington, D.C.
2. EPA Region 1 2009, *Managing Stormwater with Low Impact Development Practices: Addressing Barriers to LID*. EPA 901-F-09-003, EPA Region 1, Boston, MA
3. Memorandum dated August 8, 1990 from James Elder of EPA's Office of Water Enforcement and Permits to Water Management Division Directors concerning designation of stormwater discharges for immediate permitting.
4. Letter from G. Tracy Mehan, III to Elizabeth McLain, with attachment "Answers to Questions Raised," dated Sept. 16, 2003.
5. Robert Pitt, et. al, The National Stormwater Quality Database NSQD, version 1.1, February 16, 2004.
6. National Stormwater Quality Database, version 3.1, R. Pitt, March 8, 2011.
7. Tiefenthaler, L., Schiff, K., and Bay, S. 2001. *Characteristics of Parking Lot Runoff Produced by Simulated Rainfall*. Southern California Coastal Water Research Project Technical Report No. 340.
8. EPA 2007, *Reducing Stormwater Costs through Low Impact Development (LID) Strategies and Practices*. EPA 841-F-07-006, Office of Water, Washington, D.C.
9. EPA's WATERS database:
http://ofmpub.epa.gov/waters10/attains_region_cy.control?p_region=9#tmdl_by_pollutant
10. California EPA 2010, *User's Guide for the California Impervious Surface Coefficients*, Ecotoxicology Program, Integrated Risk Assessment Branch, Office of Environmental Health Hazard Assessment, Sacramento, CA.
11. Document entitled "ADOT Hydrology Manual Guidelines: Estimating Percent Impervious Cover, undated, Navajo County Department of Public Works:
<http://www.navajocountyaz.gov/pubworks/pdfs/ImperviousCover.pdf>
12. Cappiella, K. Brown, K. 2001. *Impervious Cover and Land Use in the Chesapeake Bay Watershed*, Center for Watershed Protection, Ellicott City, MD.
13. Memo to File from Liz Ottinger, EPA Region 3: *Rationale for 70% Impervious Surface Indicator used in the RDA Petition Response*, undated.
14. Letter dated November 18, 2013 from the Hawaii DOH to Maui County.
15. Rio Tinto Mine Website: https://ndep.nv.gov/bca/rio_tinto.htm
16. Bay, S., et. al. 2003. *Water Quality Impacts of Stormwater Discharges to Santa Monica Bay*. Marine Environmental Research 56:205-223.
17. Stein, E.; Tiefenthaler, L.; and Schiff, K. 2007. *Sources, Patterns and Mechanisms of Stormwater Pollutant Loading from Watersheds and land Uses of the Greater Los Angeles Area*, Southern California Coastal Water Research Project Technical Report No. 510.

18. Brown, C., Evans, B. 2013. *Street Sweeping Effectiveness Studies*. Stormwater: Journal for Surface Water Quality Professionals. Jan/Feb 2013.
19. City and County of Honolulu, Stormwater Management Plan, Appendix F, Action Plan for Retrofitting MS4 with Structural BMPs, June 2012.
20. Specification for Curb Inlet Baskets, BioClean, undated.
21. Silins, J. 2009. *Community-Based Conservation in Tucson's Rincon Heights Neighborhood*, Vision: a publication of the Arizona Chapter, American Planning Association, December, 2009, pp 1-5.
22. Green Infrastructure and Stormwater Management Case Study: Taylor Mall, City of Phoenix and Arizona State University, American Society of Landscape Architects.
23. Description of Bicknell Avenue Green Street Project, available at: http://www.smgov.net/Departments/OSE/Categories/Urban_Runoff/Bicknell_Avenue_Green_Street.aspx.
24. Description of Los Angeles Zoo parking lot retrofit project, available at: http://lacitysan.org/wpd/Siteorg/LAPropo/sitefiles/LA_Zoo/zoointro.htm.
25. Back to the Future: Measure DD, water health and re-marshing Lake Merritt, accessed from <http://wildoakland.org/2013/04/back-to-the-future-measure-dd-water-health-and-re-marshing-lake-merritt>.
26. Overview of Popoia Street Storm Water Retrofit, available at: www.huihawaii.org
27. Ka'apa Stream TMDL, Kailua.Oahu
28. Hawaii Department of Health Clean Water Branch Polluted Runoff Control Program, Fiscal Year 2013, End of Year Report.
29. Tahoe Regional Planning Agency, 2011 Threshold Evaluation Report, Appendix IE3-Stormwater Management/BMP Retrofit Program, October 24, 2012.
30. Tahoe in Depth, Winter 2013-14.
31. Brochure entitled "Clean Water is Everyone's Business: A Commercial and Industrial Property Owner's Guide to improving Lake Tahoe Clarity", Tahoe Regional Planning Agency, undated.
32. EPA 2013. *Green Infrastructure Opportunities and Barriers in the Greater Los Angeles Region*. EPA 833-R-13-001, Office of Water, Washington, D.C.
33. Project summaries for the San Francisco Bay Delta, accessed from: <http://www2.epa.gov/sfbay-delta/project-summaries#urban>, including a description of the Fremont Tree-Well Filter project.
34. EPA 1995. *Storm Water Discharges Potentially Addressed by Phase II of the National Pollutant Discharge Elimination System Storm Water Program Report to Congress* EPA-K-94-002, Office of Water, Washington, D.C.
35. Urban Clusters in Maui based on 2010 Census
36. EPA Region 9, Memo from Water Permits Office: *Request for Residual Designation of MS4 Discharges on the Island of Guam for NDPEs Permitting* to Jared Blumenfeld, February 8, 2011.
37. EPA Region 1, Preliminary Residual Designation Pursuant to CWA, Long Creek: <http://www.epa.gov/region1/npdes/stormwater/assets/pdfs/LongCreekRD.pdf>
38. EPA Region 1, Preliminary Residual Designation Pursuant to CWA, Charles River: <http://www.epa.gov/region1/charles/pdfs/RODfinalNov12.pdf>